



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,422	03/31/2004	Ratinder Paul Ahuja	06897.P006	8851
97298	7590	01/04/2011	EXAMINER	
Patent Capital Group 6119 McCommas Blvd Dallas, TX 75214			SALOMON, PHENUEL S	
			ART UNIT	PAPER NUMBER
			2179	
			NOTIFICATION DATE	DELIVERY MODE
			01/04/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

thomasframe@patcapgroup.com
patbradford@patcapgroup.com
roseanne.cisneros@patcapgroup.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/816,422

Applicant(s)

AHUJA ET AL.

Examiner

PHENUEL S. SALOMON

Art Unit

2179

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 12/01/2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 25, 27-29 and 32-33.
Claim(s) withdrawn from consideration: 22-24.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ba Huynh/
Primary Examiner, Art Unit 2179

Continuation of 11. does NOT place the application in condition for allowance because: The arguments are not persuasive in view of the cited art.

As per claim1, applicants argue that nothing in Dugatkin discloses anything related to a default rule set.

In response, The examiner disagrees and notes that Dugatkin discloses A "capture group" is a group of data units or network traffic data concerning the data units which may be collected according to system defined and/or user defined constraints. The constraints may include a "start trigger" and a "stop trigger". The triggers may specify events that cause the collectors 210 to begin or cease capturing network traffic. The start trigger may be set to be a particular kind of data unit, may be a particular network address specified as a source and/or destination address in a data unit, may be a data rate of the network traffic, and others. The triggers may be sequences of specified data units. The triggers may be a pattern or rule specifying a portion of a network address or other identifying information included in a data unit. The triggers may also be set based on time constraints such that network data is captured over a system or user defined period of time (e.g., 3 minutes, 30 minutes, 3 hours). Network traffic may also be captured until a memory or storage area is full. (para. [0036]). The system defined the triggers when to start and stop capturing network traffic implies that it is a default rule set since there is any user intervention.

Second, nothing in Dugatkin discusses any type of capture rule, which outlines source and destination address information.

In response, The examiner disagrees and notes that Dugatkin discloses The triggers may be a pattern or rule specifying a portion of a network address or other identifying information included in a data unit (para. [0036]).

Finally, no reference discusses search scheduling to occur after an initial search is generated, or how such searching would continue on a periodic basis. As an aside, no reference discusses how a report would be automatically sent to a network address of an author of the initial search.

In response, The examiner disagrees and notes that Yanagihara teaches after an initial search is generated it is scheduled to occur on a periodic basis such that a report is automatically sent to a network address of an author of the initial search (col. 9, lines 10-35)..